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**REDACTED VERSION OF DOCUMENT
SOUGHT TO BE SEALED**

Leigh, Daniel

From: V. David Rivkin <david.rivkin@wg-law.com>
Sent: Tuesday, February 9, 2021 4:30 PM
To: Eberhart, David R.; mkwun@kblfirm.com
Cc: #Elasticsearch-Floragunn
Subject: RE: Deposition of Steve Kearns

[EXTERNAL MESSAGE]

Hi David,

Thanks for your email. February 24 is fine to take Steve Kearns' deposition. Will he be designated as a 30(b)(6) witness? If so, please let us know which topics he will be designated for. Also, please give us available dates for the remaining deponents and 30(b)(6) designees.

As for the [REDACTED] issue you raised in your email last Friday evening, if you are representing that Elastic will not seek lost profit damages based on lost sales outside the US (while reserving Elastic's right to seek disgorgement of floragunn's profits from sales outside the US), then we agree that Elastic need not present a 30(b)(6) witness on topic 3 in floragunn's 30(b)(6) deposition notice. Please confirm, however, that the Elastic representative(s) who will be designated to testify as to topic number 9 ("revenue and/or sales not made as a result of floragunn's purported infringement of Elastic's code") will be adequately prepared to discuss the lost sales related to the companies listed in Elastic's second supplemental response to Interrogatory 11, including the CRM records related to such customers or potential customers in ES-FG_0033296 (referenced in Elastic's response to Interrogatory 11), and well as ES-FG_00045161 which was produced on Saturday. On a related note, since we have resolved the AEO issue related to the second supplemental response to Interrogatory 11, would you kindly send us a verification for the response to that Interrogatory.

Finally, with respect to the Hendrik Saly issue, we will continue to provide [REDACTED]. Floragunn expects to receive a certificate confirming Mr. Saly's [REDACTED] inability to work for a period after January 27. As I explained, we do not currently anticipate that he will be [REDACTED] sufficient to be produced for deposition before the end of fact discovery. If his status changes thereafter, we can discuss appropriate next steps at that time, subject to the Court's approval as necessary. We confirm that Mr. Saly has not spoken with our experts, and that our experts will not rely on any communications between the experts and Mr. Saly in forming their opinions.

As to your email a few minutes ago about Jochen Kressin's deposition, we will revert back to you tomorrow.

Best regards,

David

WUERSCH & GERING

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From: Eberhart, David R. <deberhart@omm.com>
Sent: Tuesday, February 9, 2021 4:20 PM
To: V. David Rivkin <david.rivkin@wg-law.com>; mkwun@kblfirm.com
Cc: #Elasticsearch-Floragunn <ElasticsearchFloragunn@omm.com>
Subject: Deposition of Steve Kearns

David & Michael --

Is your side available to take the deposition of Steve Kearns on February 24 starting at 9AM ET/6 AM PT?

Sincerely,

David

O'Melveny

David R. Eberhart

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